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March 31, 2003

Rebecca Kane
U.S. Environmental Protection Agency
Office of Enforcement and Compliance Assurance
Mail Code 2222A
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20460

Re: *Notice of Availability of Enforcement Compliance History Online Web Site,
67 Fed. Reg. 70079 (November 20, 2002)*

Dear Ms. Kane:

The Association of Metropolitan Sewerage Agencies (AMSA) is pleased to provide comments on the U.S. Environmental Protection Agency's (EPA's) *Enforcement Compliance History Online Web Site*. Founded in 1970, AMSA represents the interests of nearly 300 of the nation's publicly owned wastewater utilities (POTWs). AMSA members serve the majority of the sewered population in the United States and collectively treat and reclaim over 18 billion gallons of wastewater every day. AMSA has an expressed interest in the quality of information disseminated by the Agency, especially information relevant to the compliance history of our members.

AMSA commends the Agency for its efforts to make environmental compliance information available to the public. It is critical, however, that all information made available is accurate and complete.

Data Accuracy

AMSA believes it is critical that the data available on the Enforcement Compliance History Online (ECHO) site are both accurate and complete for a number of reasons. EPA is encouraging state and local environmental authorities to use the data contained in the ECHO database to "determine where to focus compliance assistance and/or enforcement efforts." To the extent that state and municipal funds will be spent on compliance efforts based on information contained in this database, a

system to fully ensure the accuracy and completeness of the information on ECHO is paramount.

The following comments illustrate further AMSA's concerns with the accuracy and completeness of the data contained in the ECHO database:

- AMSA believes it is necessary to have the opportunity to regularly comment and report errors on this and future EPA-sponsored web sites that display facility operational records on the Internet. An adequate link connecting the regulated community, EPA, and the public should be in place to ensure the accuracy of disseminated information. The regulated community should be given the ability to review and comment on any future reports prior to them being available to the public. This will help to ensure accuracy, proper transfer, sharing, and display of public information.
- AMSA members are very concerned that ECHO gives ready access to inaccurate compliance data on their facilities. The inaccurate portrayal of significant noncompliance status could subject our members to third party lawsuits and to the expense of defending against them. This inaccurate data can be used against facilities and mislead the public on the environmental records of our nation's POTWs.
- It is of great concern to our membership that presently, federal data prevail in the event of conflicts between state records and federal records. For states with primacy for the Clean Air Act and Clean Water Act, AMSA recommends that state data should prevail.

Data Interpretation

ECHO in its current form does not provide meaningful and useful environmental compliance information to the public. The database does not provide a "context" for compliance data that are reported for each facility. In addition, the database does not contain tools to allow a user to determine the "significance" of noncompliance that is noted in the report.

Specific examples of concern among our members are highlighted below:

- The data format and content is sufficiently complex that many ECHO users would benefit from guidance on how to interpret the data, how to gather more information, and suggestions on where to go next. This is particularly important to understanding violations reported on ECHO, as well as the actions taken by the permittee to attain compliance. Misinterpreted and misrepresented data can result in unwarranted assignment of guilt.
- The presentation of data on ECHO can cause user confusion. For example, assume that a permittee is required to analyze effluent on a daily basis for phosphorus and has an effluent limit of 1.0 mg/l. In any single reporting quarter, the permittee would have approximately 90 measurements. Also assume that one of those 90 measurements had a phosphorus concentration of 1.2 mg/l, while all other measurements were below 1.0 mg/l. The database would show that the permittee had a violation during the reporting quarter and would list the violation as a 20% exceedance of the phosphorus limit. While technically correct, the way the data are presented

makes it very easy for the casual user to assume that the permittee exceeded the phosphorus limit 20% of the time, when in fact they met their permit limit 99% of the time.

- Public misunderstanding of compliance data has very serious consequences for POTWs and may require the POTW to expend resources to correct public perception. Note that even after clarification or corrections of misunderstood violations, the reputation of the POTW may still suffer. It should be EPA's first priority in providing data to the public to avoid this type of error.
- Our members are concerned that, on many occasions, enforcement penalties listed on ECHO reflect the amount sought by the state agency rather than the actual amount obtained. Again this presentation of information can lead to incorrect assumptions regarding a facility's performance.

Error Correction Process

The data correction procedures currently in place must be further developed and refined to make the ECHO database workable. There are significant data quality issues with respect to the data that is currently posted. While EPA has established a data correction process, AMSA is concerned that the process is unwieldy and may not result in timely corrections being made. Further, the process relies on "data stewards" from the states and EPA regions to research and resolve data errors. AMSA urges the Agency to take steps to ensure that there is adequate funding for these staff positions to ensure that corrections are made in a timely fashion.

The following examples indicate problems and concerns encountered by AMSA members during the error correction process:

- Numerous AMSA member agencies have found that there have been no efforts by the Agency to confirm and correct the permit violations that are listed on the ECHO website despite submittal of error notification forms. In some instances, there has not been an EPA response even months after submission of an error notification form. Since data on ECHO is easily accessible to the public, EPA should move with urgency in resolving errors on the web site. In some cases, it appears the error notifications have been forwarded to the state agencies with no deadlines for their response. Given the amount of publicity that the Agency has given to ECHO, it seems imperative that the Agency be proactive in responding to error notification reports. AMSA recommends that there be a time limit of 30 days for reviewing and responding to error notification reports.
- One AMSA member received a response after attempting to report an error in the location given for a facility in ECHO. The response to a utility location error was: "Your error notification has been reviewed and resolved. The System Action Officer did not act upon this error notification because the address and city are correct in the FRS source system. Changes to the name and/or address of specific permits require paperwork submitted to the appropriate office. These changes cannot be made at this level and are therefore outside of the scope of the purpose of this error correction system. Thank you for participating in the effort to improve the data quality in EPA's information systems." This response was not useful to the facility because it failed to provide

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what the "appropriate office" is or even a general contact number, e-mail, or address to contact to correct this error.

Thank you again for the opportunity to comment on this critical effort. AMSA looks forward to continued discussions with the Agency on this matter. If you have any questions about our comments please do not hesitate to call me at 202/833-4651.

Sincerely,

A handwritten signature in black ink that reads "Adam Krantz". The signature is written in a cursive, slightly stylized font.

Adam Krantz

Managing Director, Government and Public Affairs